

DECISION



18224
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-200795

DATE: May 26, 1981

MATTER OF: William R. O'Brien - Transportation of household goods - Excess weight

DIGEST: An employee of Department of Army is liable for excess costs incurred in transportation of household goods under Government Bill of Lading where total weight shipped exceeded statutory maximum of 11,000 pounds, regardless of the existence of extenuating circumstances. However, in view of uniform tare weights of containers holding household goods, consideration should be given to applying 85 percent rule contained in Federal Travel Regulations, paragraph 2-8.2b(3).

William R. O'Brien appeals the determination of our Claims Group that he is indebted in the amount of \$3,350.73 for the excess weight of household goods shipped incident to his transfer.

Mr. O'Brien, an employee of the Department of the Army, was transferred during the summer of 1979 from Brussels, Belgium, to Fort George G. Meade, Maryland. He was authorized transportation of a maximum net weight of 11,000 pounds of household goods, in accordance with 5 U.S.C. 5724(a) and the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973), paragraph 2-8.2a (FPMR Temp. Reg. A-11, Supp. 4, April 1977). The goods were shipped on a Government Bill of Lading which listed the net weight of the goods as 16,035 pounds, and is supported by valid weight certificates. The Department of the Army computed Mr. O'Brien's excess cost as \$3,352.30, on the basis of 5,035 pounds of excess weight, and total freight charges of \$10,671.10. Mr. O'Brien states there is a slight discrepancy of \$5 in this amount which indicates careless work. However, the amount is correct since the Government received a \$5 discount for payment within 15 days, and was billed and paid freight charges of \$10,671.10.

Mr. O'Brien's main contention is that he took every precaution to obtain estimates of the weight of his household goods prior to shipment. He states that he disposed of certain heavy appliances prior to shipment for the specific purpose of reducing the weight of the shipment under 11,000

[Liability For Excess Weight Costs in Transportation of Household Goods]

017025 / 115326

pounds. He also states that his many inquiries to the Army's local transportation officer and to agents of the appropriate van line were made for the purpose of determining if there was a likelihood of exceeding the maximum permissible weight. He says that if he had been informed of the weight problem, he would have decided whether to ship the excess or to eliminate it. He insists that he was told after each of his inquiries that his shipment was under 11,000 pounds. However, after receipt of the shipment, he was advised of the actual weight of the shipment of 16,035 pounds.

Mr. O'Brien argues that the error in estimating the weight of the shipment was made by the Army's transportation officer and the van line's agent and that he should not be made to pay for their error in view of his attempts to ensure that the shipment did not exceed the authorized maximum weight. He thus asks that he be relieved of responsibility for the excess weight charges.

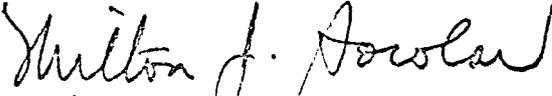
Authority for transporting the household effects of transferred employees at Government expense is governed by 5 U.S.C. § 5724(a) (1976). That section establishes 11,000 pounds as the maximum weight of goods authorized to be transported. As the 11,000 pound weight limitation is statutory, no Government agency or employee has the authority to permit transportation in excess of the weight limitation. Therefore, regardless of the reasons for the shipment of the excessive weight of household goods, the law does not permit payment by the Government of charges incurred incident to shipment of the excess weight. Ronald E. Adams, B-199545, August 22, 1980.

Additionally, 5 U.S.C. 5584(a) (1976), which provides for the waiver of claims against the Government where collection would be against equity and good conscience and not in the best interests of the United States specifically excludes overpayments due to the transportation of household goods. Thus, there is no authority to relieve Mr. O'Brien from responsibility for the excess weight charge.

Finally, we note that Mr. O'Brien's household goods were shipped in containers. Of the 14 containers used, nine had a tare weight of 396 pounds. The remaining tare weights

varied from 110 pounds to 420 pounds. Since nine of the containers had exactly the same tare weight, we assume that the weight of interior bracing and padding materials is not reflected. If the above assumptions are true, then the provisions of FTR paragraph 2-8.2b(3) are for application. That paragraph provides that if the known tare weight does not include the weight of interior bracing and padding materials, but only includes the weight of the container, the net weight of the household goods is to be computed at 85 percent of the gross weight, less the weight of the container. However, if the known tare weight does include interior bracing and padding materials, the net weight is to be computed on the basis of the net weight shown on the bill of lading. See Wayne I Tucker, B-198510, March 9, 1981, 60 Comp. Gen. _____.

Therefore, since the record is not clear on this point, the Department of the Army should compute the net weight of Mr. O'Brien's household goods shipment under FTR para. 2-8.2b(3), unless their records indicate that the known tare weight for Mr. O'Brien's shipment included the weight of interior bracing and packing materials.


Acting Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-200795 (CFR)

MAY 26 1981

The Honorable Clarence D. Long
House of Representatives

Dear Mr. Long:

This is in further response to your letter of September 25, 1980, concerning the appeal of Mr. William R. O'Brien from the settlement of our Claims Group. That settlement determined Mr. O'Brien to be liable for the excess costs of shipping his household goods from Brussels, Belgium, to Fort George G. Meade, Maryland.

Enclosed is our decision B-200795, of today in Mr. O'Brien's case in which we hold that there is no authority to relieve him from responsibility for the excess costs. However, we have suggested to the Department of the Army that Mr. O'Brien may be entitled to have the amount of his indebtedness reduced.

We trust that this satisfactorily responds to your inquiry.

Sincerely yours,

MILTON J. SOCOLAR

Acting Comptroller General
of the United States

Enclosure